

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

ANTHONY BAYAD ,

Plaintiff ,

JOHN CHAMBERS, PATRICIA
RUSSO, ANTHONY
SAVASTANO and CARL
WIESE,
Defendants ,

CIVIL ACTION

CASE NO. 04-cv-10468-GAO

EX PARTE MOTION FOR DEFAULT JUDGMENT

Plaintiff moves for an Order Granting Default Judgment against Defendant **Patricia Russo** has **failed to answer**, appear or otherwise defend, and the time to otherwise move or plead has **expired** and has **not** been **extended** in this action. This motion is made pursuant to District Court of Civil Procedure, Rule **55(b) (2)**, and is based upon the accompanying Plaintiff **'affidavit of support** with attached Exhibits.

Defendant Patricia Russo has only filed a notice of appearance on **March 27 , 2004**, that does not refer to the merits of the claim does demonstrate a termination to defend against the claim and will not **"preclude"** the entry of default; **See 10 Moore' Federal Practice, § 55.10[2][c](Matthew bender, 3d ed.)**. Additionally Entry of Default severely limits Party as defendant Patricia Russo ' s subsequent participation in action. The most important consequence of the fact that a default is entered (**Rule 55(a)**) is that the defaulting party is no longer entitled in the determination of its Liability in the action; **See Dow Chem. Pac. Ltd. V. Rascator Maritime S. A., 782 F.2d 329, 336 (2d Cir. 1986)**.

CERTIFICATE OF SERVICE

DATE: MAY. 12.2004

I Hereby certify that a true copy of the foregoing document was served on May 12 2004, a copy of this document was

SERVED BY HAND ON ;

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